AFRICAN GROWTH AND OPPORTUNITY ACT

On October 2, 2000 President Clinton signed a proclamation designating 34 sub-Saharan African countries as beneficiary countries under the African Growth and Opportunity Act (AGOA - Title I of the Trade and Development Act of 2000). The Presidential proclamation designates these sub-Saharan African countries as beneficiaries for purposes of trade preferences made available under the AGOA. The Proclamation modifies the Harmonized Tariff Schedule of the U.S. to reflect the apparel and textile trade preferences made available under Section 112 of the Act. It also delegates to the Office of the United States Trade Representative the authority to publish (through a *Federal Register* notice) determinations regarding whether a country has established an effective visa system and meets the other customs-related requirements under section 112 of the Act.

Summary of AGOA Preferences

<u>General Preferences:</u>
The (AGOA) institutionalizes a process for strengthening U.S. relations with African countries and provides incentives for African countries to achieve political and economic reform and growth. The Act offers beneficiary sub-Saharan African countries duty-free and quota-free U.S. market access for essentially all products through the Generalized System of Preferences (GSP) program, provides additional security for investors and traders in African countries by ensuring GSP benefits for eight years, and eliminates the GSP competitive needs limitation for African countries. In addition, the Act establishes a U.S.-sub-Saharan Africa Trade and Economic Cooperation Forum to facilitate regular trade and investment policy discussions and promotes the use of technical assistance to strengthen economic reforms and development, including assistance to strengthen relationships between U.S. firms and firms in sub-Saharan Africa.

<u>Apparel and Textile Preferences</u>:
The Act lifts all existing quotas on textiles and apparel products from sub-Saharan Africa (within 30-days of a U.S. Government determination that Kenya and Mauritius have adopted effective visa systems), and extends duty/quota free U.S. market access for sub-Saharan African apparel made from yarns and fabrics not available in the United States. In addition, the Act extends duty/quota free treatment for apparel made in Africa from U.S. yarn and fabric and for knit-to-shape sweaters made in Africa from cashmere and some merino wools as well as apparel produced in Africa from silk, velvet, linen, and other fabrics not produced in commercial quantities in the United States.

The Act extends duty free and quota free U.S. market access for apparel made in Africa with African/regional fabric and yarn. Such imports, however, are subject to a cap (limit) ranging from 1.5 to 3.5% of the multibillion dollar U.S. apparel import market over an 8 year period. African apparel imports made with African fabric/yarns currently total about $250 million. Normal MFN duties would be levied on apparel (regional fabric) imports over the cap.

Finally, the Act, which provides an average 17.5% duty advantage on apparel imports in the U.S.

market, promotes economic development and diversification in Africa's poorest countries through a special provision in the cap which allows African countries with an annual GNP of under $1,500 ("lesser developed beneficiary countries) to use third country fabric inputs for four years. This special investment incentive for the poorest African countries is aimed at providing a market stimulus to economic development for areas with little existing industry.

Beneficiary Country Designation

The thirty-four countries designated as beneficiary sub-Saharan African countries under the AGOA are: Benin, Botswana, Cape Verde, Cameroon, Central African Republic, Chad, Republic of Congo, Djibouti, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria Rwanda, São Tomé and Principe, Senegal, Seychelles, Sierra Leone*, South Africa, Tanzania, Uganda, and Zambia.

Twenty-eight countries have been designated as lesser developed beneficiary sub-Saharan African countries under the AGOA. They are: Benin, Cape Verde, Cameroon, Central African Republic, Chad, Republic of Congo, Djibouti, Eritrea, Ethiopia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mozambique, Niger, Nigeria, Rwanda, São Tomé and Principe, Senegal, Sierra Leone*, Tanzania, Uganda, and Zambia.

Eligibility Review Factors

In considering the eligibility of sub-Saharan African countries for AGOA beneficiary status, the AGOA required the President to consider the countries based on the existing criteria under the Generalized System of Preferences program as well as new AGOA criteria and a new GSP criterion. These new criteria include whether these countries have established or are making continual progress toward establishing, a market-based economy, the rule of law, the elimination of barriers to U.S. trade and investment, economic policies to reduce poverty, the protection of internationally recognized worker rights, and a system to combat corruption. Additionally, countries (1) cannot engage in activities that undermine U.S. national security or foreign policy interests, (2) cannot engage in gross violations of internationally-recognized human rights, (3) cannot provide support for acts of international terrorism, and (4) must have implemented their commitments to eliminate the worst forms of child labor.

Customs-Related Eligibility Determination

The AGOA requires that beneficiary countries meet certain customs-related requirements in order to receive the apparel and textile benefits of the AGOA. The Presidential Proclamation delegated to USTR the authority to make this determination and to publish this determination in the *Federal Register*. To receive the apparel and textile benefits of AGOA, a USTR-chaired inter-agency committee must determine, inter alia, that countries have an effective visa system and enforcement procedures to prevent unlawful transshipment and the use of counterfeit documents. In addition, countries must agree to cooperate with U.S. Customs in investigating and preventing transshipment and must have implemented or be making substantial progress toward implementing and following procedures and requirements similar of those of NAFTA Chapter 5. USTR will publish Federal Register notices as countries meet these requirements and expects that some countries will be determined to be eligible for these benefits shortly. U.S. Customs technical assistance teams will soon travel to the region to work with key apparel producing beneficiary countries on the visa and other customs-related requirements.

Eligibility Review Process

A USTR-chaired Subcommittee of the Trade Policy Staff Committee (TPSC) conducted a review of countries eligibility for AGOA preferences, based on the criteria required under AGOA. The review relied on information from U.S. Embassies, from sub-Saharan African governments, from U.S. Government agencies, from other reliable information sources, and from public comments received in response to a June 19, 2000 *Federal Register* notice. Through this process country-specific issues and areas of concern were identified. Specific policy objectives to be pursued with specific governments were established. Objectives with respect to economic reform, internationally-recognized worker rights, human rights, anti-corruption actions, intellectual property protection, and elimination of the worst forms of child labor were pursued with a wide-range of countries. USTR's recommendations to the President regarding the designation of AGOA beneficiary countries were based on the results of these efforts.

GSP Expansion Process for AGOA Beneficiaries

Under the AGOA, the President is authorized to provide GSP (duty-free) treatment for selected products from beneficiary sub-Saharan African countries if, after receiving advice from the U.S. International Trade Commission, he determines that the products are not import-sensitive in the context of imports from these countries. A review of almost 1,900 products is now being conducted by the USTR-chaired GSP Subcommittee of the TPSC. A public hearing was held by the TPSC on September 7. The ITC is scheduled to publish its advice to the President on or about October 6. It is expected that the President will designate the products that will be added to the GSP program if imported from beneficiary sub-Saharan African countries before the end of the year.

Sierra Leone: Delayed Implementation

In the Presidential Proclamation, the President authorized the USTR to determine the effective date of Sierra Leone's designation as a beneficiary sub-Saharan African country under AGOA. Sierra Leone has a democratically-elected government trying to restore its control over all the territory of Sierra Leone. While it is confronting difficulties with a brutal armed insurgency, the country has a market-oriented economy with minimal government interference and policies conducive to foreign investment. Problems with effectively implementing rule of law throughout its territory are linked to the insurgency. Developments in Sierra Leone will determine when the benefits will become effective. The trade benefits provided by AGOA could be particularly beneficial for the people of Sierra Leone as they attempt to recover from the traumatic conflict of the last decade.